

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In The Matter of Charges and)

Complaint Against)

THEODORE POTRUCH, M.D.,)

Respondent.)

Case No. 10-4905-1

FILED

JUN 16 2010

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed at the time filing of Charles N. Held, M.D., Chairman, Theodore B. Berndt, M.D., Member, and Valerie J. Clark, Member, having a reasonable basis to believe that Theodore Potruch, M.D., hereinafter referred to as Respondent, has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Respondent is currently licensed in active status (License No. 3310), and has been so licensed since March 13, 1977 by the Nevada State Board of Medical Examiners pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. Patient A was a fifty-three year old (53) female at the time of the incidents in question. Her true identity is not disclosed to protect her privacy, but her identity is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.

3. Patient A underwent a mammogram on November 4, 2004 where a BI-RAD category 5 rating, highly suggestive of malignancy, was given to a lesion found in the right breast. A BI-RAD 5 category mammogram indicates that the lesion is cancerous until proven otherwise. Thus, the standard of care upon receiving this pathology report would be to proceed with open surgical biopsy to make a definitive diagnosis.

1 4. Patient A presented for examination to Respondent on November 11, 2004. An
2 ultrasound was performed on the right breast. Respondent noted that the lesion in the right breast
3 was suspicious. He recommended an ultrasound core biopsy on the right breast.

4 5. Patient A returned to Respondent on December 8, 2004 for a core biopsy under
5 ultrasound guidance. This pathology report came back "Fibrocystic change, nonproliferative."
6 This result was directly opposed to the previous mammogram report, Respondent's own ultrasound
7 reading and the patient examination. Furthermore, this pathology report is consistent with normal
8 breast tissue suggesting that the lesion was missed with the biopsy needle and that an open
9 surgical biopsy should have been performed. Respondent did not at this, or at any time, proceed
10 with an open surgical biopsy to make a definitive diagnosis even though an open surgical biopsy
11 was required in order to definitively diagnose the right breast lesion.

12 6. Patient A called for results on December 21, 2004. She was told that an
13 appointment was scheduled for sometime in January, 2005.

14 7. Patient A next saw Respondent on March 10, 2005. It was noted that the lesion in
15 the right breast was enlarged and tender. Respondent performed a "rebiopsy" with a handheld core
16 biopsy with reported "scant amount of tissue". The pathology results showed only adipose tissue
17 with no evidence of malignancy. Again, this pathology was consistent with normal breast tissue
18 and did nothing to resolve or reconcile the previous abnormal imaging obtained in
19 November, 2004. No further imaging studies were performed to show that the abnormal lesions
20 had resolved making it mandatory for Respondent to pursue alternate biopsy options. Patient A
21 was requested to return to clinic in four (4) months. This was the last time that Patient A saw
22 Respondent.

23 8. Patient A sought care from another physician on May 25, 2005. Fine needle
24 aspiration biopsy of the right breast mass was performed that same day. The pathology results
25 showed moderately differentiated adenocarcinoma. Patient A then underwent surgical treatment
26 for her right breast cancer.

27 ///

28 ///

Count I

9. All of the allegations contained in the above paragraphs are hereby incorporated by reference as though fully set forth herein.

10. Nevada Administrative Code Section 630.040 defines malpractice as the failure of a physician, in treating a patient, to use the reasonable care, skill, or knowledge ordinarily used under similar circumstances.

11. Nevada Revised Statute Section 630.301(4) provides that malpractice is grounds for initiating disciplinary action against a licensee.

12. Respondent failed to use the reasonable care, skill, or knowledge ordinarily used under the same or similar circumstances when he failed and omitted to immediately proceed with an open surgical biopsy of the right breast at any time in the care of Patient A following the BI-RAD 5 category mammogram, and to adequately biopsy the malignant right breast tissue on two occasions when only normal breast tissue was obtained leading to false and incomplete pathology reports.

13. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

WHEREFORE, the Investigative Committee prays:

1. That the Nevada State Board of Medical Examiners give Respondent notice of the charges herein against him and give him notice that he may file an answer to the Complaint herein as set forth in Section 630.339 of the Nevada Revised Statutes within twenty (20) days of service of the Complaint.

2. That the Nevada State Board of Medical Examiners set a time and place for a formal hearing after holding an Early Case Conference pursuant to NRS §630.339(3);

3. That the Nevada State Board of Medical Examiners determine what sanctions it determines to impose if it determines there has been a violation or violations of the Medical Practice Act (Nevada Revised Statutes Chapter 630) committed by Respondent; and

4. That the Nevada State Board of Medical Examiners make, issue and serve on

///

1 Respondent its findings of facts, conclusions of law and order, in writing, that includes the
2 sanctions imposed; and

3 5. That the Nevada State Board of Medical Examiners take such other and further
4 action as may be just and proper in these premises.

5 DATED this 10th day of June, 2010.

6 THE NEVADA STATE BOARD OF MEDICAL EXAMINERS

7
8 By: 

9 Bradley O. Van Ry, Esq.

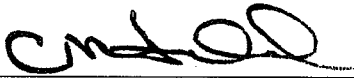
10 Deputy General Counsel and Attorney for the Investigative Committee
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

1 STATE OF NEVADA)
2 : ss.
3 COUNTY OF DOUGLAS)
4

5 Charles N. Held, M.D., hereby deposes and states under penalty of perjury under the laws
6 of the state of Nevada that he is the Chairman of the Investigative Committee of the Nevada State
7 Board of Medical Examiners that authorized the foregoing Complaint against the Respondent
8 herein; that he has read the foregoing Complaint; and that based upon information discovered
9 during the course of the investigation into a complaint against Respondent, that he believes the
10 allegations and charges in the foregoing Complaint against Respondent are true, accurate, and
11 correct.

12 Dated this 16th day of June, 2010.

13 
14 _____
15 Charles N. Held, M.D.
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on 16th day of June 2010; I served a file copy of the COMPLAINT, PATIENT DESIGNATION & Fingerprint Information, by mailing via USPS certified return receipt to the following:

Theodore Potruch, M.D.
2020 Goldring Ave., #206
Las Vegas, NV 89106

Dated this 16th day of June 2010.



Angelia L. Donohoe
Legal Assistant